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From the INTERNATIONAL BUREAU

PC

NOTIFICATION OF TRANSMITTAL  
OF COPIES OF TRANSLATION  
OF THE INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT

(PCT Rule 72.2)

To:

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ALLEMAGNE

Date of mailing (day/month/year) 26 May 2005 (26.05.2005)	
Applicant's or agent's file reference PC 03 404 B	IMPORTANT NOTIFICATION
International application No. PCT/EP2003/010726	International filing date (day/month/year) 26 September 2003 (26.09.2003)
Applicant NEOPERL GMBH et al	

## 1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

## 2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EG, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NI, NO, NZ, OA, OM, PG, PH, PL, PT, RO, SC, SD, SE, SG, SK, SL, SY, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

## 3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO  
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1211 Geneva 20, Switzerland

Authorized officer

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Translation

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PC 03 404 B	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/010726	International filing date (day/month/year) 26 September 2003 (26.09.2003)	Priority date (day/month/year) 04 October 2002 (04.10.2002)
International Patent Classification (IPC) or national classification and IPC E03C 1/084		
Applicant NEOPERL GMBH		

1.	This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2.	This REPORT consists of a total of <u>7</u> sheets, including this cover sheet.  <input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).  These annexes consist of a total of <u>15</u> sheets.
3.	This report contains indications relating to the following items:  I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 16 January 2004 (16.01.2004)	Date of completion of this report 16 July 2004 (16.07.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/010726

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages 1-8, 8a \_\_\_\_\_, filed with the letter of 07 July 2004 (07.07.2004)
- ☒ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages 1-33 \_\_\_\_\_, filed with the letter of 07 July 2004 (07.07.2004)
- ☒ the drawings:  
pages 1/16-16/16 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☒ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

...5...

1. The amendments submitted with the letter of 6 July 2004 introduce substantive matter which, contrary to PCT Article 34(2)(b), goes beyond the disclosure in the international application as filed. This finding concerns the following additions to claim 1:

- (a) "...or a flow rectifier (14) being connected downstream of the jet splitting device (2)...";
- (b) "and the through-flow holes (3) in the jet splitting device (2) having a smaller diameter than the through-flow apertures (12, 15) in the jet regulating device (4) or in the flow rectifier (14)".

2. These additional feature combinations unacceptably broaden the application for the following reasons:

- (a) The original application does not disclose a jet regulator with only a flow rectifier connected to a jet splitting device. The following combinations were originally disclosed:
- jet splitting device and jet regulating device (claim 4);
  - jet splitting device, jet regulating device and flow rectifier (see page 8, lines 18 to 23);
  - jet splitting device and flow rectifier with

## I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

special through-flow apertures (claim 23);  
- jet splitting device, flow rectifier and baffle plate (see page 18, lines 8 to 14).

It is clear that a structure comprising simply a jet splitting device and a flow rectifier is not wanted, since the water jet must first be decelerated, which is achieved in the variants with a jet regulating device or baffle plate.

(b) This feature combination is not originally disclosed in the description, claims or drawings. The drawings show apertures with different cross-sections, but none of the apertures are circular and therefore do not have a "diameter" (i.e. a polygon, square, etc. is not characterised by means of a diameter because it does not have a diameter).

3. Pursuant to PCT Rule 70.2(c), the examination report is established without taking the above-mentioned amendments into consideration. This means that claim 1 is examined as a combination of the original claims 1 and 4.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP 03/10726

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

### 1. Statement

Novelty (N)	Claims	14, 16, 19, 27-29	YES
	Claims	1-13, 15, 17, 18, 20-26, 30-33	NO
Inventive step (IS)	Claims		YES
	Claims	1-33	NO
Industrial applicability (IA)	Claims	1-33	YES
	Claims		NO

### 2. Citations and explanations

#### 1. Documents

D1: DE-U-20006163

D2: FR-A-1387318

D3: US-A-3334818

D4: US-A-3229916

D5: WO83/01266

D6: EP-A-1076136

D7: DE-A-10027987

D8: WO95/06787

D9: EP-A-1001095

#### 2. Independent claim 1, lack of novelty, PCT Article 33(2)

2.1 D1 is considered the prior art closest to independent claim 1.

2.2 D1 discloses a jet regulator 1 comprising a mounting casing 4, which is divided into at least two mutually connectable casing parts 5,6, and a jet splitting device 2 which is disposed inside the mounting casing and is connected so as to not be detachable to a casing part 5 on the inflow side, a

jet regulating device 3 being connected downstream of the jet splitting device 2.

2.3 The combination of features described in claim 1 is thus already known from document D1. Consequently, claim 1 does not meet the requirements of PCT Article 33(2) because the subject matter thereof lacks novelty.

2.4 In addition, each of documents D2 to D6 also discloses the combination of features described in claim 1. Consequently, claim 1 also does not meet the requirements of PCT Article 33(2) in relation to each of documents D2 to D6:

D2: mounting casing 4,5 comprising two casing parts 4,5, jet splitting device 12, jet regulating device 21,23;

D3: mounting casing 54,70 comprising two casing parts 54,70, jet splitting device 50,52, jet regulating device 64,66;

D4: mounting casing 60,62 comprising two casing parts 60,62, jet splitting device 61, jet regulating device 68;

D5: mounting casing 110 comprising two casing parts 112,114, jet splitting device 104, jet regulating device 108;

D6: mounting casing 2 comprising two casing parts 9,10, jet splitting device 5, jet regulating device 3.

### 3. Dependent claims 2-33

3.1 Dependent claims 2 to 33 do not contain any additional features which, in combination with the

features of any claim to which they refer back, result in subject matter that is novel and involves an inventive step with reference to the documents previously cited during the current procedure.

3.2 This is because the additional features of these claims:

- are either already known from one of documents D1 to D6 (claims 2 to 13, 15, 17, 18, 20 to 26, 30 to 33; see the search report)
- or are an obvious combination of features from the available prior art documents, D1 to D9, or concern minor structural modifications of the kind that a person skilled in the art routinely makes on the basis of familiar considerations (claims 14, 16, 19, 27-29).

Additional comments

1. The following wording in the description broadens the scope of protection in a manner that is vague and not clearly defined (PCT Guidelines, C-III, 4.3a and 6.5):
  - page 6, lines 1 and 2, "In an embodiment ... **worthy of individual protection...**";
  - page 11, lines 8 to 10: "The individual features may be implemented individually or combined in an embodiment as per the invention".
2. Contrary to PCT Rule 6.3(b), claim 1 is not drafted in the two-part form.



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3. The back references in the dependent claims are incorrect. For example, the insert part (5) is first mentioned in claim 9. Consequently, claim 10 can refer back only to claim 9.
4. Claim 26 contains wording between parentheses. The intended limitations are thereby unclear (PCT Article 6).